

REMARKS

Claims 1-12, 19, 20, 22, 23 and 28 have been canceled without prejudice or disclaimer. Claims 33-71 have been added and therefore are pending in the present application. Claims 33-71 are supported by the original claims. In addition, the percent identities recited in claims 33-37, 41-44 and 48-51 are supported by page 14, lines 1-7 of the specification; the N-terminal amino acid recited in claims 39, 46 and 53 is supported by page 13, lines 21-24 of the specification; and the high stringency hybridization conditions recited in claims 56, 58 and 60 are supported by page 11, line 16 – page 12, line 7 of the specification.

It is respectfully submitted that the present amendment presents no new issues or new matter and places this case in condition for allowance. Reconsideration of the application in view of the above amendments and the following remarks is requested.

I. The Rejection of Claims 1-12, 19-20, 22-23 and 28 under 35 U.S.C. 112

Claims 1-12, 19-20, 22-23 and 28 are rejected under 35 U.S.C. 112 as being indefinite. Specifically, the Office objected to the phrases "xyloglucanase enzyme belonging to family 44", "xyloglucanase activity of at least 30%" and "conventional fillers." This rejection is respectfully traversed.

Applicants submit that these phrases are clear to the skilled artisan. With respect to the families of glycosyl hydrolases, these are well known to one of ordinary skill in the art. See, e.g., Henrissat et al., 1993, *Biochem. J.*, 293: 781-788.

However, in order to advance prosecution, claims 1-12, 19-20, 22-23 and 28 have been rewritten as claims 33-71. The newly presented claims do not recite any of these phrases. Therefore, this rejection has been overcome.

II. The Rejection of Claims 11, 12, 19 and 20 under 35 U.S.C. 112

Claims 11, 12, 19 and 20 are rejected under 35 U.S.C. 112 as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the Office stated that these claims employ microorganisms and requested that Applicants provide the assurances required under 35 C.F.R. 1.801 – 1.809 for the microorganisms.

As requested by the Examiner, Applicants confirm that biological material was deposited at Deutsche Sammlung von Mikroorganismen und Zellkulturen GmbH (DSMZ) under the

Budapest Treaty and assigned accession number DSM 13323. All restrictions on the availability to the public of said deposited material will be irrevocably removed upon the granting of the U.S. patent. Said deposit will be maintained for (a) thirty years, (b) at least five years after the most recent request for the furnishing of a sample of the deposit is received by the depository, or (c) the enforceable life of the U.S. patent granted from this application, whichever is longest. If the deposited material becomes inviable during the above term, the deposited material will be replaced.

For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 112. Applicants respectfully request reconsideration and withdrawal of the rejection.

III. The Rejection of Claims 1-9, 22, 23 and 28 under 35 U.S.C. 112

Claims 1-9, 22, 23 and 28 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicants submit the specification conveys that the inventors had possession of the claimed invention at the time the application was filed. However, in order to advance prosecution, claims 1-9, 22, 23 and 28 have been rewritten as claims 33-71 to address this rejection.

For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 112. Applicants respectfully request reconsideration and withdrawal of the rejection.

VI. The Rejection of Claims 1-2, 5-8, 12, 19-20, 22-23 and 28 under 35 U.S.C. 102

Claims 1-2, 5-8, 12, 19-20, 22-23 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulein et al. (WO 99/02663) and under 35 U.S.C. 102(e) as being anticipated by Schulein et al. (U.S. Patent No. 6,268,197, the US counterpart to the above PCT application). This rejection is respectfully traversed.

Schulein et al. disclose xyloglucanases of families 5, 7 and 12 (see, e.g., claims 13-15).

However, Schulein et al. do not disclose xyloglucanases of family 44, as claimed herein. Applicants therefore submit that these rejections have been overcome.

V. The Rejection of Claims 1-4, 12, 19-20, 22-23 and 28 under 35 U.S.C. 102

Claims 1-4, 12, 19-20, 22-23 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Dalboege et al. (WO 94/14953). This rejection is respectfully traversed.

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Dalboege et al. disclose *Aspergillus aculeatus* enzymes having endoglucanase activity including beta-glucanase activity. In addition, Dalboege et al. disclose 16 partial sequences of a DNA sequence encoding an enzyme having endoglucanase activity. However, these partial DNA sequences are not included in the DNA sequences of SEQ ID NOS: 1, 3 and 5 of the instant application. Thus, Dalboege et al. do not disclose the xyloglucanases of the present invention.

VI. Conclusion

In view of the above, it is respectfully submitted that all claims are in condition for allowance. Early action to that end is respectfully requested. The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application.

Respectfully submitted,



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